Supreme Court, U.S.
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No. 02-1060

In the Supreme Court of the United States

ILLINOIS, PETITIONER,

v.

ROBERT S. LIDSTER, RESPONDENT.

On Writ of Certiorari to the Supreme Court of Illinois

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JANUARY 9, 2003
CERTIORARI GRANTED MAY 5, 2003

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The following opinions have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the printed Petition for a Writ of Certiorari:

People v. Lidster, 202 Ill.2d 1,
779 N.E.2d 855 (2002) 1a-22a

People v. Lidster, 319 Ill.App.3d 825,
747 N.E.2d 419 (2d Dist. 2001) 23a-28a

IN THE CIRCUIT COURT FOR THE EIGHTEENTH JUDICIAL CIRCUIT, DU PAGE COUNTY, ILLINOIS

The People of the State of Illinois

v.

Robert S. Lidster

No. 97 DT 3462

RELEVANT DOCKET ENTRIES

09/02/97	Complaint charging Defendant, Robert S. Lidster, with driving under the influence of alcohol.
11/17/97	Entry of Appearance of counsel, Michael W. Fleming, for Defendant.
9/22/98	Motion of Michael W. Fleming to Withdraw as Attorney of Record.
9/22/98	Order appointing Public Defender to represent Defendant.
4/20/99	Motion to Quash Arrest and Suppress Evidence.
6/4/99	Hearing on Defendant's Motion to Quash Arrest and Suppress Evidence. Motion denied.
9/27/99	Waiver of Trial by Jury. Trial held. Court finds Defendant guilty of driving under the influence of alcohol.

10/13/99	Motion to Reconsider the Court's Finding of Guilty, or in the Alternative, Motion for a New Trial.
11/15/99	Sentencing Hearing held. Sentence of Defendant ordered.
11/17/99	Notice of Appeal.
11/29/99	Amended Notice of Appeal.
5/14/01	Order vacating the court's finding of guilty and Defendant's conviction and sentence.

IN THE APPELLATE COURT OF ILLINOIS,
SECOND DISTRICT

The People of the State of Illinois

v.

Robert S. Lidster

No. 2-99-1288

RELEVANT DOCKET ENTRIES

03/30/01	Opinion of the Appellate Court of Illinois, Second District.
04/24/01	Order Denying Rehearing.

IN THE SUPREME COURT OF ILLINOIS

The People of the State of Illinois

v.

Robert S. Lidster

No. 91522

RELEVANT DOCKET ENTRIES

10/18/02 Opinion of the Supreme Court of Illinois.

AVC:ldj 4/12/99

STATE OF ILLINOIS)
) SS:
COUNTY OF DU PAGE)

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT, DU PAGE COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,	)	
PLAINTIFF,	)	
VS.	)	No. 97 DT 3462
ROBERT S. LIDSTER,	)	
DEFENDANT.	)	

MOTION TO QUASH ARREST AND SUPPRESS EVIDENCE

Now comes the defendant, ROBERT LIDSTER, by and through his attorney, STEPHEN W. BAKER, Public Defender for DuPage County, by his assistant, ANTHONY V. COCO and moves this Honorable Court to quash the arrest and suppress from the introduction into evidence the direct and indirect products of said arrest and traffic stop of the automobile which the defendant was driving.

IN SUPPORT THEREOF, THE DEFENDANT STATES AS FOLLOWS:

1. That the defendant, ROBERT LIDSTER, is a citizen of the United States and State of Illinois and is entitled to all guarantees with respect to the Federal Constitution and the Illinois Constitution.

2. That on the 30th day of August, 1998, a police officer of the Lombard Police Department, stopped the defendant while he was driving an automobile on a public highway in DuPage County, Illinois, pursuant to a traffic roadblock and that this officer thereafter arrested the defendant.

3. That prior to said traffic stop the arresting police officer had no warrant for the defendant, nor any reason to believe that any warrant had been issued, nor a search warrant of any kind, nor any probable cause to believe that the defendant was committing or had committed any offense, nor a reasonable and articulable suspicion that the defendant had violated any law.

4. That the alleged purpose of the roadblock and traffic stop was to investigate a fatal hit and run accident that had occurred one week prior, the perpetrator having been alleged to have driven a 1980-1986 Ford "Full size" Pickup or Bronco. (See Exhibit A.)

5. That in their quest to locate said perpetrator, the Lombard Police Department chose to stop **every single car** traveling eastbound and westbound on North Avenue at Craig Street between the hours of 11:00 p.m. - 2:00 p.m.

6. That when seized, the defendant was driving a Mazda Minivan.

7. That the aforesaid traffic stop of the defendant and the automobile he was driving was a seizure as contemplated by the Fourth Amendment to the United States Constitution and

was made without probable cause, and without reasonable and articulable suspicion that the defendant had violated a law.

8. That a police officer's stopping of a motorist without at least articulable and reasonable suspicion that the motorist, an occupant, or the vehicle is subject to seizure for violation of a law, is unreasonable under the Fourth Amendment to the United States Constitution. *Delaware v. Prouse*, 440 U.S. 648, 9 S.Ct. 1391, 59 L.Ed.2d 660 (1979).

9. The Fourth Amendment to the United States Constitution guarantees the right of persons to be secure from unreasonable search and seizure of their persons, house, papers and effects.

10. The Exclusionary Rule prohibits the introduction into evidence of the direct and indirect products of unreasonable searches and seizures. *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961); *Wong Sun v. U.S.*, 371 U.S. 471, 9 L.Ed.2d 441 (1963).

11. As a result of the aforesaid traffic detention, the prosecution has acquired knowledge that it intends to employ in the prosecution of this cause.

WHEREFORE, the defendant respectfully moves this Honorable Court to quash his arrest, due to the absence of authority, or probable cause or articulable and reasonable suspicion by the police officer to detain the defendant, and to suppress from introduction into evidence the following:

A. Physical evidence discovered directly and indirectly as a result of the aforesaid traffic stop, arrest and detention;

B. Statements, utterances, reports of gestures, observations and responses by the defendant subsequent to the traffic detention;

C. Witnesses who viewed the defendant subsequent to said traffic detention, during the detention, as well as witnesses discovered as a result of said traffic stop provided that the defendant has the right to call said witnesses for the purpose of protecting his constitutional rights;

D. Photographs, fingerprints, and other information, the product of the processing of defendant following his said traffic stop and his arrest; and the fruits thereof;

E. All other knowledge and fruits thereof, witnesses, statements, whether written, oral or gestural and physical evidence which is the direct and indirect product of said traffic stop.

Respectfully submitted,

STEPHEN W. BAKER
Public Defender for DuPage County

By: /s/ Anthony V. Coco

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LOMBARD POLICE
630-620-5955

ALERT

FATAL HIT & RUN ACCIDENT

THE LOMBARD POLICE ARE LOOKING FOR ASSISTANCE IN IDENTIFYING THE VEHICLE AND DRIVER INVOLVED IN THIS ACCIDENT WHICH KILLED A 70 YEAR OLD BICYCLIST. THE ACCIDENT OCCURRED ON

SATURDAY MORNING AUGUST 23RD

12:15 AM (15 MINUTES AFTER MIDNIGHT)

SUSPECT VEHICLE

1980 - 1986

FORD "FULL SIZE" PICK-UP or

FORD BRONCO

DAMAGE: RIGHT FRONT HEADLIGHT AREA.

MISSING DUE TO THE ACCIDENT IS THE HEADLIGHT/TURN SIGNAL HOUSING UNIT.

anyone with information about the car or driver, or who may have witnessed the accident please call the Lombard police at (630) 620-5955

calls will be kept confidential upon request

(Exhibit A)

STATE OF ILLINOIS)
) SS:
COUNTY OF DU PAGE)

IN THE CIRCUIT COURT OF DU PAGE COUNTY
FOR THE EIGHTEENTH JUDICIAL CIRCUIT
OF ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,)
PLAINTIFF,)
)
VS.) No. 97 DT 3462
)
ROBERT S. LIDSTER,)
)
DEFENDANT.)

REPORT OF PROCEEDINGS taken at the hearing of the above-entitled cause, before the Honorable MARK W. DWYER, and/or the Honorable STEPHEN J. CULLITON, JUDGES of said Court, on Friday, the 6th [sic] [4th]day of June, A.D. 1999, at the hour of 9:30 o'clock A.M.

PRESENT:

MR. JOSEPH E. BIRKETT, STATE'S ATTORNEY

OF DU PAGE COUNTY, ILLINOIS,

BY

MS. ELIZABETH EKL,

Assistant State's Attorney,

AND

MR. LIAM BRENNAN,

Assistant State's Attorney,
appeared on behalf of The People of
the State of Illinois.

84-12

VIRGINETTE GOODALIS

OFFICIAL COURT REPORTER

DU PAGE COUNTY, ILLINOIS

PRESENT:

MR. ANTHONY V. COCO,

AND

MS. JULIE ANNE DI CARO,

appeared on behalf of the Defendant.

ALSO PRESENT:

MR. ROBERT S. LIDSTER, DEFENDANT.

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Witness	Direct	Cross	Redirect
Detective Ray Vasil	[J.A. 14]	[J.A. 23]	[J.A. 28]

EXHIBITS

Description	Marked for Identification	Admitted
Flyer	#1 [J.A. 16]	(not admitted)
Lombard Police Department General Order re: Roadblocks	#2 [J.A. 21]	(not admitted)

THE DEPUTY: Remain seated. Come to order. Court is in session

THE CLERK: Robert Lidster.

DEFENDANT LIDSTER: Here.

THE COURT: Do you have the Public Defender, sir?

DEFENDANT LIDSTER: Yes, I do.

THE COURT: Have a seat.

(Whereupon other Court business was conducted, after which the following proceedings were had herein:)

THE COURT: Mr. Public Defender, do you represent Robert Lidster?

MR. COCO: Yes, I do.

THE COURT: Are you answering ready for trial then?

MR. COCO: Yes, we are, Judge. It's a motion.

THE COURT: It's a motion to do what?

MR. COCO: It's a motion to suppress. It's not a trial, your Honor.

THE COURT: Are you ready this morning?

MS. EKL: Yes, Judge.

MR. COCO: Just to let the State's Attorney know, one of her officers just had to walk out to go to the Grand Jury. He said he would come back as soon as he could.

MR. COCO: Lidster.

THE COURT: Are you ready to go?

MR. COCO: Yes, your Honor, we are. We would be making a motion to exclude witnesses.

Your Honor, you should already have the case of People V. Adams which I submitted on a previous motion to reconsider but if not, I have an extra copy.

DEFENDANT LIDSTER: Good morning, your Honor.

THE COURT: Good morning, sir.

This was the Lombard –

MR. COCO: Roadblock.

THE COURT: – safety check? Okay. Who is your first witness?

MR. COCO: Your Honor, I call Detective Vasil. I don't know if you want to do it at the Bench?

THE COURT: Sure. Officer, please raise your right hand and be sworn.

(Witness sworn.)

THE COURT: Have a seat, please.

Go ahead, Mr. Coco.

MR. COCO: Thank you.

RAY VASIL,

called as a witness on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. COCO

Q Could you please state your name and spell your last name for the court reporter?

A Ray Vasil, V-a-s-i-l.

Q You are a detective with the Lombard Police Department?

A Yes, I am.

Q You were employed and on duty on August 30th, 1997?

A Yes, I was.

Q What were the nature of your duties at that time?

A We were doing an informative stop on North Avenue trying to work out a fatal hit-and-run accident.

Q I am sorry. I didn't hear you. What kind of a stop?

A Informative stop.

Q What is an informative stop?

A We were passing out a flyer and asking passerbys if they had witnessed anything at a similar time the previous Friday.

Q And can you describe what happened on the previous Friday?

A A gentleman riding his bicycle eastbound on the south side of North Avenue was struck by a vehicle and killed.

Q Okay. Did you then put out some type of interoffice memo concerning that incident?

A Not an interoffice memo to my recollection.

Q Okay. Was there some type of alert; fatal hit-and-run accident?

A There was a flyer that we were passing out to vehicles on North Avenue that following week.

Q Okay. You are talking about the night in question that you were passing out those flyers?

A The week after – the same day of the week for the following week.

Q Okay. Just so we are clear. The hit-and-run accident occurred on the week earlier prior to this roadblock?

A That's correct.

Q And the same day of the week approximately the same time?

A Yes.

MR. COCO: Your Honor, may I approach the witness?

THE COURT: Sure.

MR. COCO: Let the record show I am showing Detective Vasil what I have marked as Exhibit 1.

BY MR. COCO:

Q Do you recognize Exhibit 1?

A Yes.

Q What is that?

A This is the flyer we were handing out.

Q This is concerning the fatal hit-and-run accident that happened on Saturday morning, August 23rd?

A Yes.

Q Now, according to this flyer you were looking for a Ford full-size pickup or Ford Bronco, correct?

A That is what we believed to be the vehicle, yes.

Q So is it fair to say that on August 30th to the best of your knowledge at that time the offending vehicle of the hit-and-run was a full-sized pickup or Ford Bronco?

A Yes.

MR. BRENNAN: Objection. Speculation.

THE COURT: The question can stand.

BY MR. COCO:

Q Who made this decision to set up this roadblock?

A I am snot [sic] sure who made the final decision. Lt. Glennon is the one who advised us of it.

Q And in what manner were you pulling over cars?

A We weren't pulling cars over. We were just stopping traffic going eastbound.

Q Only eastbound?

A Yes.

Q Was that every three cars or every single car?

A Every single car.

Q Can you tell the Judge how this roadblock was publicized prior to it occurring?

A The accident was in the media a lot. I am not sure if the roadblock was publicized or not.

Q Is it fair to say to the best of your knowledge that it wasn't publicized?

MR. BRENNAN: Objection.

THE COURT: That will be sustained. His answer will stand.

Q How did you decide to chose [sic] that road to do the roadblock?

A That's where the accident was.

Q How did you decide to pull over every single car?

A We were just looking for witnesses. We couldn't be discriminating of who saw what based on every other car or anything like that.

Q Did it matter to you whether the people were even from that neighborhood?

A No.

Q Did it matter to you whether the people were even there a week prior?

A Certainly. That's the question we asked them but we didn't know that until we spoke to the person.

Q So you were – is it fair to say you were still pulling over cars even though you didn't know the answer to that question?

MR. BRENNAN: Objection.

THE COURT: It will be sustained.

BY MR. COCO:

Q Is it a fair statement that every single car was getting pulled over regardless or not whether it could help in your investigation?

A Every vehicle was stopped and every person was given a flyer.

Q Getting more specific, on the night in question did you pull over a Mazda minivan?

A As I stated, we didn't really pull over anything. All traffic was stopped and handed a flyer.

Q I'm sorry. Was a Mazda minivan one of the vehicles that was stopped?

A I believe so, yes.

Q And did you approach the Mazda minivan?

A The vehicle didn't – I didn't really approach them. I was standing in the center lane and as the vehicles – there was a line of vehicles. As each vehicle pulled up to us, we would hand them a flyer.

Q Okay. Was the Mazda minivan containing Robert Lidster one of these vehicles?

A He was in a vehicle, yes.

Q Okay. The person to my right?

A Yes.

MR. COCO: May the record reflect Detective Vasil identified my client?

THE COURT: All right.

Q And when you approached Mr. Lidster, at that time were you aware of any outstanding warrants for his arrest?

A No.

Q At the time you approached him were you aware of him being in violation of any city ordinance or Illinois State law?

A I wasn't sure but I had some sort of – some sort of feeling that something might be wrong.

Q And this is when he first approached?

A Right.

Q And why was that?

A Because he almost hit me.

Q Was he in a long line of cars that were stopped or was he – can you describe the manner that the cars were stopped?

A There must have been 10 or 15 vehicles stopped in each line and then, as we would hand out the flyer, the next vehicle would pull up.

Q Is it safe to say that but for your handing out these flyers – strike that.

At what point is it that you claim that Mr. Lidster almost hit you?

A When he pulled up at me.

Q And that is as you were attempting to stop the vehicle?

A That is as he was pulling up within 15 feet or so from the spot behind him to the sport [sic] where I was standing.

Q So was his car already stopped pursuant to the road-block before he pulled up and then, as you say, almost hit you?

A Yes.

Q And when you approached his car, did you ask him for his driver's license and insurance?

A Not right away.

Q What did you do when you approached his car?

A I asked him why he had drove towards me.

Q And what did he tell you.

A I don't recall his exact words.

Q Did you eventually ask him for his driver's license and insurance?

A Yes.

Q Did you ever attempt to hand him a flyer in question?

A I don't know if I handed him a flyer or not.

MR. COCO: If I can have a moment, your Honor?

THE COURT: Sure.

MR. COCO: Your Honor, let the record reflect I am showing counsel what I have just marked as Defendant's Exhibit No. 2, for identification.

May I approach the witness?

THE COURT: Yes.

BY MR. COCO:

Q Officer Vasil, I just asked the Judge to look at your Defendant's Exhibit No. 2, for identification. Do you recognize this document?

A Yes.

Q What is it?

A It looks like a copy of our general order reference roadblocks.

Q Okay. That's basically two pages long just pertaining to the roadblocks?

A Yes.

Q Are there any guidelines within the Lombard Police guidelines for what you refer to as an informative roadblock?

A I wasn't the one who organized it or called for it. My lieutenant did. I am not really sure what his feelings were for the stop.

Q Are there guidelines for what you called an informative roadblock?

A Not to my knowledge.

Q How many times in the past have you used what you call informative roadblocks?

A This is my first experience.

Q Are you aware of any other experiences – strike that.

Were you or any member of the Lombard Police Department filming this roadblock?

A No.

MR. COCO: May I have a moment?

THE COURT: Yes.

BY MR. COCO:

Q Was there anybody else other than the Lombard Police Department videotaping the roadblock?

A Not to my knowledge.

MR. COCO: I have no further questions.

THE COURT: Anything on cross?

MR. BRENNAN: Briefly, your Honor.

CROSS EXAMINATION

BY MR. BRENNAN:

Q Officer Vasil, when you say this was an informational stop, the purpose for this stop, the sole purpose, stopping all the traffic eastbound was to hand out flyers and ask each individual in the car whether they had seen anything the week prior, correct?

A Yes.

Q And the reason that this time and date was selected was it was the same day of the week and the same time in the morning that the accident took place the previous week, correct?

A Correct.

Q And the hope was that perhaps someone coming off a shift the same day at the same time previously might have seen something and not realized the seriousness of it and upon seeing the flyer might report that they had seen it, is that correct?

A Yes.

Q The only information you had the week before was that it was a Ford-like vehicle, a Bronco or something, a full-sized pickup that had been involved in the accident, correct?

A Yes, sir.

Q But you weren't looking for that particular vehicle on the morning of the roadblock? You were just looking for the people who may have seen it, isn't that correct?

A Yes.

Q And every single car was stopped without exception traveling eastbound, is that correct?

A Yes.

Q Can you estimate approximately the duration of each of those stops?

A We stopped each vehicle –

MR. COCO: Objection, Judge. It is only relevant if it pertains to my client.

THE COURT: He may answer.

THE WITNESS:

A 10 to 15 seconds.

BY MR. BRENNAN:

Q And as you were conducting these stops, was it your practice to ask each and every driver their name?

A No.

Q Did you ask for a driver's license?

A No.

Q Did you ask for insurance?

A No.

Q Did you check to see whether they were wearing seatbelts?

A No.

Q And at this particular car when the Mazda minivan approached you, it drove at you, is that correct?

A Yes.

Q Did you have to take any evasive action?

A Yes.

Q What did you do?

A I jumped back several steps.

Q After doing that, is that when you approached the car?

A Yes.

Q When you approached the car, you asked the defendant a question, is that correct?

A Yes.

Q And that is, "Why did you drive at me?"

A Yes.

Q When he answered that question, what, if any, observations did you make about him?

A I smelled alcoholic beverage on his breath and I noticed slurred speech when he spoke back at me.

Q Based upon that what did you do?

A I asked him to pull off to the side of the road.

Q And did you direct him anywhere at that point?

A Yes.

Q What was that?

A It was a side street. I don't recall exactly which side street it was.

Q You have no idea?

A North side, north of North Avenue I know that.

Q Was he asked to perform field sobriety tests?

A He was later, yes.

MR. COCO: Your Honor, at this time if I may interject, the basis of my motion doesn't involve field sobriety tests. It just involves the purpose for the stop.

THE COURT: I understand.

MR BRENNAN: The People won't pursue that other question then.

If I could just have a moment, your Honor?

THE COURT: Sure.

BY MR. BRENNAN:

Q Lt. Glennon, he is the one that informed you that the roadblock was going to take place, is that correct?

A Yes.

Q Can you explain where Lt. Glennon is situated in the hierarchy of the Lombard Police Department? He is your immediate supervisor, correct?

A No.

Q Lt. Glennon, who is his immediate supervisor?

A Deputy Chief Cuny.

Q And then the Chief, is that correct?

A Yes.

Q And is it fair to say he is pretty high up in the organization?

MR. COCO: Objection.

THE COURT: It will be sustained.

BY MR. BRENNAN:

Q And Lt. Glennon, did he call a meeting and apprise you of this roadblock?

A He did.

Q Can you describe the roadblock scene? How many emergency vehicles were at the scene?

A Anywhere between a half dozen to a dozen emergency vehicles between our vehicles, police department vehicles, and the Du Page County emergency service vehicles.

Q Were there lights oscillating?

A Yes.

Q And were you – were you dressed in a manner to apprise the defendant that you were police officers?

A I was in plainclothes but I had an orange reflective vest that said Police on it and I was holding my orange cone to make sure that everyone saw me.

Q If I can have one moment, your Honor?

THE COURT: Yes.

MR. BRENNAN: People having nothing further.

THE COURT: Mr. Coco, anything back?

MR. COCO: Yes, Judge.

REDIRECT EXAMINATION

BY MR. COCO

Q What business shifts get out on Saturday nights around midnight?

MR. BRENNAN: Objection to the question. Speculation.

THE COURT: If he knows, he can answer.

THE WITNESS:

A Certainly we were thinking the post office where the person who was hit, the large postal installation, Carol Stream – the gentleman who was hit works at the post office and they have shifts all through the night.

So we were thinking maybe someone who worked there or any other factory job. North Avenue is filled with industrial parks and we thought maybe someone getting off there or a fast-food restaurant who would normally come down that shift, down that street, might have seen something.

BY MR. COCO:

Q At when you did this roadblock, did you have personal knowledge of any of these businesses or any of their shift changes including the post office?

A Yes.

Q Okay. Which business and when was their shift change?

A The post office, and I know that the person who was struck – I don't know exactly what time he got off but I know that he had gotten off just previous to him riding his bike down North Avenue.

Q Yes, but you don't know when his shift got off?

A I know it was within a half hour of him being struck by the vehicle.

MR. COCO: I have no further questions.

THE COURT: Okay. Anything back?

MR. BRENNAN: Nothing back.

THE COURT: Okay. Thank you, Officer. You may step down.

(Witness excused.)

MR. COCO: Your Honor, at this time I will make a motion for a directed finding.

THE COURT: That will be denied.

MR. COCO: Could I briefly be heard?

THE COURT: Go right ahead.

MR. COCO: Pursuant to People V. Adams case, your Honor, that is 293 Il.Ap.3d [sic], 180, on the very last page of that case the Second District was five – five things that need to be shown for this to be a valid check point.

Specifically looking at No. 4, "Was the roadblock publicized clearly in advance," and as Officer Vasil testified, it was not publicized.

Also looking at Point No. One, "Were authorized selected by policy level or politically accountable individuals?"

While it did come out that Lt. Glennon is a lieutenant, there is no evidence that he is a policy level or politically accountable individual.

Further, your Honor, Detective Vasil admitted that there are no roadblock guidelines for what he refers to as an informational roadblock.

Finally, there has been no evidence that this in any way advances public interest. If he wants to find out who the possible witnesses are, there are various news media and a much less intrusive way they can go about it.

THE COURT: Okay. Your motion is denied.

MR. COCO: Thank you.

THE COURT: I have looked at those same factors and I specifically find that they have met at least four, if not five, of those factors.

Lt. Glennon is a lieutenant in the hierarchy of the police department. He is at least No. 3 position. The decision was not made by a road officer. The decision was made by a supervisor.

Every vehicle was stopped. Your motion claims in both directions. The officer testified only eastbound traffic was stopped. Every car was stopped. The detention was at a minimum period of time.

Certainly the publication in regard to the death was well publicized. The basis to make the stop at the same time was trying to determine if any witnesses at that same time of night of the same day would have seen anything.

I think the factors in this case are readily distinguishable from the Adams stop about a village sticker.

There was certainly a sufficient show of the official nature of the operation. There were up to 12 squad cars or emergency vehicles with their lights on making the stop.

I find that the factors that are set forth in the Adams were met in this case and that the officer in the investigation and his brief contact with Mr. Lister was not an unlawful search and seizure.

Your motion is denied.

MR. COCO: Your Honor, actually it was my intention to put on some evidence. I am sorry. I am just arguing for a directed finding.

THE COURT: You put on – you called your witness. You then made a motion.

MR. COCO: I am sorry, Judge.

THE COURT: At the end of your case I have ruled.

MR. COCO: Jude, I misspoke. I apologize.

THE COURT: What do you want to do with the underlying case?

MR. COCO: Set it for trial, your Honor.

THE COURT: Okay.

MR. COCO: Can we have a jury trial date, Judge?

THE COURT: Sure. What is doing in September? Do you know why the 20th, 21st and 22nd are blocked out? Are those specifically set juries?

MR. BRENNAN: I have no idea why they are blocked out. Do you?

MS. EKL: No.

MR. BRENNAN: Back in September? No, none of ours are continued.

THE COURT: Well, this will certainly go and it will be No. One. So we will make it the 27th of September on a Monday morning. You will be No. One trial.

MR. COCO: Thank you, Judge.

THE COURT: Okay.

MR. BRENNAN: One of those days, Judge, we will check the calendar and the computer and see what might be there.

THE COURT: 20th, 21st and 22nd of September.

MR. BRENNAN: We will check and see what is going on.

THE COURT: Okay.

MR. BRENNAN: Thank you, Judge.

MR. COCO: Thank you, Judge.

(Whereupon the hearing in the above-entitled cause was continued to Monday, the 27th day of September, A.D. 1999, at the hour of 9:30 o'clock A.M.)

[Court Reporter's Certification Omitted]